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ABSTRACT

Six cases from Rhode Island court history are presented in this document. The cases, dating from the time of Roger Williams to the 1970s, examine religious freedom, personal freedom, treason, robbery, murder, and drug possession. Each case is summarized and questions are supplied to help students understand crime and punishment in Rhode Island. A glossary of words and phrases concludes the document. (RJC)

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"INTO YOUR HANDS HIS LIFE AND LIBERTY..." A COLLECTION OF SIGNIFICANT CASES FROM THE RHODE ISLAND COURTS

FIRST EDITION

Written by

Donald E. Leonard

Edited by

John O. Mattson

Published 1993/94

by the University of Rhode Island

Ocean State Center for Law and Citizen Education
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Providence, Rhode Island 02908

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FORWARD

This book was prepared to give you, the student, an opportunity to study six important cases from Rhode Island court history. These cases, dating from the time of Roger Williams to the 1970's, examine religious freedom, personal freedom, treason, robbery, murder and drug possession. They were chosen because each one has special characteristics and qualities which will give you insight into all aspects from the crime to the punishment. My hope is that by understanding the law and its application by the courts, you will become a more knowledgeable and active citizen.

To Judge Anthony Giannnini, Superior Court (Ret.), to master teachers Claudia Prior and Cynthia Marsella, and to Stephen Grimes, Judicial Archivist, for their advice, assistance, insight and patience, I say, "Thank you".

To the librarians, court personnel, parents and students who provided time and support for the content and format of this book, I offer my appreciation.

Donald E. Leonard

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ROGER WILLIAMS ET. AL. V. JOSHUA VERIN

CHARGE: NOT ALLOWING WIFE TO WORSHIP

BACKGROUND

Englishmen came to the area we now call Rhode Island before Roger Williams came here in 1636. But with Roger came his followers and a feeling of accepting the religious beliefs of others. Williams had been forced out of the Massachusetts Bay Colony. The leaders of the church did not accept his belief that each person could pray in his own way. They drove him first out of Salem, then out of Boston, and finally out of the Bay Colony.

WHAT DID ROGER WILLIAMS BELIEVE ABOUT PEOPLE AND RELIGION ?

When Roger canoed up the Great Salt River and landed in what is now Providence, he believed in religious freedom. He wanted to pray, to preach, and to go to the church of his choice. In the Charters of 1644 and 1663, all religions were to be accepted in the Colony *(Roger helped to write both charters)*. In 1663, even King Charles of England supported his idea. He signed the Charter and gave it to Rhode Island *(The people of Rhode Island lived under that Charter for almost two hundred years)*.

WHAT IDEA DID KING CHARLES LIKE?

1630 WILLIAM BLACKSTONE SETTLED IN CUMBERLAND AREA AND TRADED WITH LOCAL WAMPANOAGS AND PEQUOTS.

1636 COLONY OF RHODE ISLAND FOUNDED BY ROGER WILLIAMS.

THE CRIME

The winters in the new colony were cold. The winds roared up Narragansett Bay. They cut through the heavy cloaks of those going to church to pray *(The first church of 1700 would be of hay and straw. A fire was on the floor of the "haystack" church to keep the worshipers warm).* The first "church" in Providence was the home of Roger Williams. Every Sunday, and other times during the week, the people met in his house. This service would last about four to five hours and, after a light meal, for another hour or two. The people would pray and listen to sermons by Williams, who had been a minister.

The only adults who didn't attend were Joshua and his wife, Jane Verin. The Verins lived across from the Williams family. They had come with Roger from Salem. Each night, the people would walk to pray in the "church", but the Verins stayed in their house. Mrs. Verin would have liked to go to church service, but instead was forced to stay to do house-work for Mr. Verin. Some townsfolk said that they believed that he whipped her. They often heard screa

WHY WAS MRS. VERIN

UNBLE TO ATTEND CHURCH SERVICES ?

Although he was told by Roger Williams to allow his wife to attend services, Verin refused. He said that she had work to do. A meeting of the townspeople was called to decide on the situation. This problem was very important to all of the people, because religion was important to bond people to work together in the town. This bond helped all persons to survive. Without the cooperation of each person, all of the people, the town could have severe problems in the terrible winters and poor growing seasons.

1637 JOSHUA VERIN IS CHARGED WITH KEEPING HIS WIFE FROM WORSHIPPING.
1638 WHIPPING POSTS AND STOCKS ARE BOUGHT BY THE COLONY.

WHY WERE ALL THE PEOPLE INVOLVED IN THIS CASE ?

At this time, Roger Williams and other elders (about eighteen men) of the town were judges. They could decide about one person stealing from or hurting another. They could decide about where one person's hay pasture ended and his neighbor's began. They decided all sorts of cases. Now the judges in a town meeting would have to decide on what to do with the Verins. Jane Verin had to attend religious services.

WHAT IS AN ELDER ? WHY WERE ONLY ELDERS THE JUDGES ?

THE TRIAL

Unlike the trials of today, this one was not held in a large building with a judge on the bench, the jury in the jury box, and the lawyers at their tables. The air in Williams' house was cold. The room was crowded with people standing and sitting. They were dressed in their warmest clothing. The fireplace glowed with a warming fire, but the room remained cold.

Williams argued that Jane must be allowed to attend services. She had to be allowed go to church on the Sabbath Day and any other day because she must be allowed to freely practice her religion. She must be allowed to show by her actions that she was a good Christian in a Christian community. He argued also that all persons in Providence Towne had the responsibility to show their religious beliefs. *(Providence was named for the "Providence" they thought that God had granted this wonderful place where they lived)*

1636 ROGER WILLIAMS AND TWENTY OTHERS BAPTIZED IN THE BAPTIST CHURCH.
1638 ROGER WILLIAMS SEPARATED FROM THE CHURCH AND BECOMES
-39 AN INDEPENDENT PREACHER.

ACCORDING TO WILLIAMS , WHAT WAS A "GOOD CHRISTIAN " ?

Joshua argued very strongly that he, not Roger Williams, would say what his wife was allowed to do. He spoke of the harshness of the weather, problems with his crops and cattle, and the work he and his wife had to do just to survive. He said that she went to Sabbath services to show that he and his wife were both good Christians. But that during the week his wife must work at home. He argued loudly that a wife was to obey her husband first, and that this obedience was dictated by God. Therefore, when he needed her to work in the house, instead of attending nightly services for an hour or more in church, she would remain at home. He concluded by saying that he would not disobey God's law.

WHAT LAW WAS VERIN CLAIMING TO OBEY
WHEN HE KEPT HIS WIFE AT HOME ?

The people in the town meeting listened carefully to arguments, questions, and answers from both sides of the problem.

WILLIAM ARNOLD: "I did not think when I agreed to allow each person to worship when he wished that it would break the rule of a wife being obedient to her husband. Mr. Verin does what he does out of good conscience. We have agreed that no man should be punished for following his conscience."

MR. GREENE: "If you keep Mrs. Verin at home, all women of the colony will cry out their anger."

MR. ARNOLD: "Will you now offend God to please women?"

ROGER WILLIAMS: "The devil is not idle here."

The discussion continued. Finally they reached their decision. Then they prayed and returned to their homes.

1656 QUAKERS CAME TO RHODE ISLAND.
1663 KING CHARLES GAVE ACCEPTANCE TO ALL RELIGIONS IN THE COLONY OF RHODE ISLAND.

THE JUDGMENT

YOUR TEACHER WILL GIVE YOU THE DECISION OF THE TOWN MEETING.

YOU BE THE JUDGE

1. If you were in that town meeting of the 1600's, would you force Mrs. Verin to attend church services? Why? Why not?
2. Did the Towne of Providence have the right to tell Joshua Verin that his wife had to attend church? Why? Why not?
3. What do you think Jane Verin would have said in this "trial"?

   Why didn't she speak?
4. Roger Williams was an educated man. Joshua Verin was not. Should Verin have had someone to argue for him?
5. If Verin continued to refuse, what should be done ?
6. Ten year later in the first "charter" of the Colony, a BILL OF RIGHTS gave freedom to worship to all persons. Would this town meeting violate that RIGHT? Why?
7. Was Joshua Verin right? Should his wife have to obey him?
8. Was Joshua Verin practicing his religion when he refused to allow his wife to attend church services?
9. Should people in a community be allowed to practice any religion? What about a religion that believes in human sacrifice? Or one that involves poisonous snakes in the services? Should the community make a judgment about which religion is good and which is bad?

1638 ROGER WILLIAMS DIED.
1700 FIRST MEETINGHOUSE (CHURCH) BUILT IN PROVIDENCE.
1719 RHODE ISLAND GENERAL ASSEMBLY DECIDED THAT CATHOLICS AND JEWS COULD NOT BE GIVEN STATUS OF FREEMAN IN THE COLONY.

DOES THIS COMPLICATE THE DECISION OF THE COURT?

▼

Joshua Verin owed eight pounds sterling to Governor Winthrop of Massachusetts. Although he tried, he could not get the money. Winthrop promised Roger Williams half of the money, if he could get Verin to pay it back.

1783 ACT OF ASSEMBLY ADMITTED ROMAN CATHOLICS TO RIGHTS OF CITIZENSHIP (FREEMAN) IN COLONY.

1788 BROWN UNIVERSITY ADMITTED STUDENTS OF ANY RELIGION BUT REQUIRED TEACHERS TO BE OF A PARTICULAR RELIGION.

1789 JEWS AND NON-CATHOLICS GIVEN RIGHTS OF FREEDMEN OF THE COLONY.

ELEANOR ELDRIDGE V. SHERIFF OF PROVIDENCE

CHARGE: TRESPASS AND EVICTMENT

BACKGROUND

"...in befriending Ellen we have the pleasure of assisting one who carries in her veins not only the blood of some of the Aborigines of our own State, the unfortunate and extinct race of the warlike Pequots, but of the much wronged and abused people who have been sold into slavery on our coasts..."

C.R. WILLIAMS OCTOBER 1834

"How is Ellen?"

"She has been whitewashing lately."

"Do you know," said Nora, "that the poor creature came very near losing her estate, after all her struggle to keep it? Mr. C._____, the mortgagee, on account of heavy losses, found himself unable to keep the property. Ellen could find no one to take it off his hands; and it was advertised to be sold."

The owner of the house at 22 Spring Street, Providence as well as other property in Providence and in Warwick, was a free black woman. Born with black and local Native American blood, Eleanor (Ellen) Eldridge was known for the quality of her work. When she worked for the Greens in Warwick, she was outstanding in her sewing. She learned to make very difficult stitches early in her life. In addition, she worked with their cows and developed more prize winning cheese than anyone else in the area.

When Eleanor visited with her brother, who was elected governor in the black elections, she wore the finest clothing. All of her clothing she made herself.

1676 ALL INDIANS ARE CONSIDERED SLAVES BY LAW.
1773 MOSES BROWN FREED ALL OF HIS SLAVES BY DEED.

As she worked very hard sewing and whitewashing houses and fences, she saved her money. She decided that she would buy property in order for her money to grow. She bought a piece of land in Warwick. Eventually she moved to Providence, where she bought another piece of land, and eventually the house at 22 Spring Street.

WAS ELEANOR A HARD WORKING PERSON ?

WHAT WERE SOME OF HER ACHIEVEMENTS ?

She had plans for her house and her future. She put additions on the house, one for herself and one for a tenant. She bought the gangway (or alley) beside the house to give her and her tenants an easier way to reach the main street. To do all of this improvement, she had to borrow some money and mortgage her property.

WAS ELEANOR A GOOD PROPERTY OWNER ?

BACKGROUND OF THE TRIAL:

In order to buy the property and the gangway Eleanor had to borrow $1500. She borrowed the money from Mr. B_____ from Warwick. She promised to repay him in four years. Unfortunately, at that time typhoid fever spread through the City. Eleanor went off with relatives to Warwick and then to Hadley, Massachusetts to escape the deadly germs. While she was away in 1831, someone who had seen her in Hadley returned to Providence and told others that Eleanor had died of typhoid in Hadley. In the meantime, Mr. B_____ had really died. His brother inherited his property and the debts owed to him.

1774 ACT OF GENERAL ASSEMBLY PROHIBITS IMPORTING SLAVES INTO THE COLONY OF RHODE ISLAND.

1775 SLAVES IN RI'S BLACK REGIMENT OFFERED FREEDOM FOR FIGHTING IN REVOLUTION.

"Is that you, Ellen? Why, I thought you was — dead!"

"I'm hungry, Baker's Boy, give me some bread quick."

"Don't come any nearer ! Don't Ellen, if you be Ellen —

cause—cause—I don't like dead folks."

Mr. B_____'s brother told Eleanor that he would not sell her property even though he had put it up for sale.

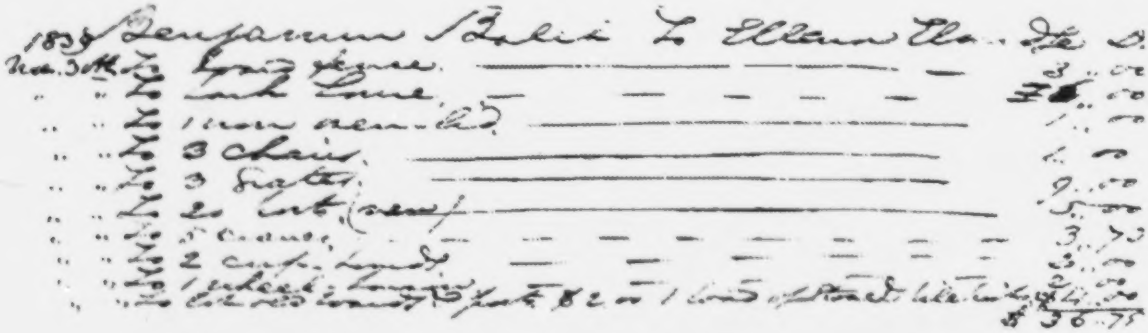
"I will not distress you, Ellen."

This statement was overheard by George Eldridge, Ruth Jacobs, Jerimiah Prophet and Lucy Prophet.

WHAT CAUSED ELEANOR'S PROBLEMS ?

Eleanor respected his word and said she would pay him $100 in April.

Then Eleanor went off to Pomfret, Connecticut to stay with a friend's daughter, ill with cholera. When she returned to Providence, her house had been sold.



ELEANOR'S RECEIPT FOR PURCHASE OF HER HOUSE

DID MR. B'S BROTHER KEEP HIS WORD ?

Eleanor tried to find out what had happened. She learned that the High Sheriff, Mr. Potter, said that he had posted the notice of mortgage sale in three public places. Ellen met with the State's Attorney who suggested that she sue the Sheriff for "trespass and ejectment". She did.

1784 LAW FOR THE GRADUAL ABOLITION OF SLAVERY. ALL CHILDREN OF SLAVE PARENTS TO BE FREED AFTER MARCH 1, 1784.

1790 GEORGE WASHINGTON'S LETTER TO TOURO SYNAGOGUE WHICH STATED THAT THE GOVERNMENT LIKE THE SYNAGOGUE GAVE "...BIGOTRY NO SANCTION..."

THE TRIAL

The trial was held in January, 1837 in the Court of Common Appeals. This was a bench trial. In a bench trial, a judge hears and decides the case, since there is no jury. Eleanor wished to show that the Sheriff trespassed illegally on her property and had put her tenants out on the street illegally.

WHAT DOES IT MEAN TO TRESPASS ?

Ellen called three witnesses to tell whether or not the Sheriff had posted the notices, as required by law.

ELLEN: "Mr. Eldridge, did you see a notice about my property posted on the door of Manchester's Tavern?"

MR. ELDRIDGE: "No, I did not."

ELLEN: "Miss Prophet, did you see a notice about 22 Spring Street posted on the Market House?"

MISS PROPHET: "I buy my vegetables there each week. I saw no such notice."

ELLEN: "Mr. Prophet, do you often go to the area of the Court House and the Market House?"

MR. PROPHET: "I did not see such a notice."

The Sheriff argued that he had posted the notice of sale on the door of Manchester's Tavern, on the door of the Court House, and on the Market House. The Judge would not take the word of the witnesses over that of the High Sheriff.

WHAT EVIDENCE DID ELEANOR BRING TO PROVE HER POINT ?

DID SHE PROVE HER POINT ?

The judge determined that the sale of the property was done in a "...legal and lawful manner". With the advice of Attorney General Green, Eleanor took the case to Circuit Court. She held the same charges against the High Sheriff. The Sheriff said that he was being charged by "...a laboring colored woman".

1821 FIRST BLACK CHURCH, AFRICAN UNION MEETING HOUSE FOUNDED.
1822 FIRST SCHOOL IN RHODE ISLAND FOR BLACK CHILDREN.

SHOULD ELEANOR HAVE GIVEN UP ON HER CASE? WHY? WHY NOT?

Eleanor brought the same witnesses to the Court. She prepared to argue again that the Sheriff had illegally trespassed on her property and illegally ejected her tenants.

THE DECISION OF THE CIRCUIT COURT JUDGE:

YOUR TEACHER WILL GIVE YOU THE DECISION OF THE JUDGE.

YOU BE THE JUDGE:

1. Eleanor seemed to be unafraid in court. Why?
2. Was Mr. B's brother wrong here? Why? Why not?
3. Should Eleanor have asked a lawyer to represent her? Why? Why not?
4. Was the sheriff correct in what he did? If so, was Eleanor correct in going to court?
5. Should Eleanor have appealed the case once she had lost in the Court of Common Pleas? Why? Why not?
6. The witnesses that appeared for Eleanor were all her relatives. Could that relationship changed the effectiveness of their testimony? Explain your answer.
7. Eleanor is described as a "...laboring colored woman..." and as "... one who has the blood of Pequots in her veins...". Should this black/Native American heritage have any effect on how Eleanor was treated by the court?
   Do you think it did?
8. Could Eleanor have tried to solve her problem in any way other than going to court? Explain your answer.
9. If you had a problem with obtaining money owed to you or taking back small property wrongfully taken from you, what could you do to get back what is yours?
10. If you were the judge, whose words would you have believed?

1822 STATE LAW ENDED RIGHT OF BLACKS TO VOTE AND TO HAVE LIQUOR LICENSES.

1824 HARD SCRABBLE RIOTS—HOUSES IN THE TOWN WERE ATTACKED BY WHITE CRIMINALS. SEVERAL PEOPLE HURT; HOMES BURNED.

PEOPLE OF RHODE ISLAND v. THOMAS DORR

"...electors shall be exempt from arrest on days of elections, and one day before, and one day after...except in cases of treason, felony or breach of the peace..."

PEOPLE'S CONSTITUTION

CHARGE: TREASON AGAINST THE STATE OF RHODE ISLAND

BACKGROUND

At the time of the American Revolution, the people of the Colony of Rhode Island *(later the State of Rhode Island)* were somewhat in favor of most people voting in elections. By the time the middle of the 1800's was approaching, the mood had changed. Generally, the voters were those who owned property. If a person did not own property he did not vote *("He" is used because women and slaves and Indians were not allowed to vote).* Thomas Wilson Dorr, son of a very wealthy Providence family, and other citizens felt that everyone should be able to vote. They remembered something frequently said before and during the recent Revolution "... no taxation without representation...". If a person cannot vote, that person has no control over what the government of the country, state, city or town does.

WHAT DID T.W. DORR BELIEVE ABOUT THE GOVERNMENT OF THE STATE?

1663 ROYAL CHARTER SETS GOVERNMENT POWER AND CITIZENS RIGHTS (LASTED TO 1842)
1798 RHODE ISLAND RATIFIES CONSTITUTION OF THE UNITED STATES.

During the late 1700's a man had to own land worth at least $134 in order to vote. By 1832 only about one third of the white adult males were allowed to vote in elections. Petitions from various groups to reform the voting laws were rejected by the General Assembly.

In 1834, a Freeman's Convention was held in Providence to develop a constitution for the state. Nothing happened because few people attended. By 1841, whole cities and towns were petitioning the Assembly to allow more representation and to give voting rights to more citizens. The Assembly continued to refuse.

DID THE PEOPLE OF THE STATE WANT MORE PEOPLE TO VOTE ?
WERE WOMEN GIVEN THE VOTE? BLACKS? WHY? WHY NOT ?

On October 4, 1841, the People's Convention in Providence wrote the People's Constitution. This Constitution gave voting rights to white male citizens who lived in state for one year. In a statewide referendum, the Constitution was approved, 13,994 to 52. State officers would not accept it.

WHO COULD VOTE IN 1841 ? WOMEN ? BLACKS ?

To oppose the People's Constitution, the Landholders created their own constitution. The Landholders Constitution gave voting rights only to white male native born citizens. People of the state defeated this Constitution.

WHAT IS A NATIVE BORN CITIZEN ? A NATURALIZED CITIZEN ?
HOW IS EACH TREATED HERE ?

1790 RI PROPOSED AMENDMENTS TO THE US CONSTITUTION INCLUDED (IN #6) FREQUENT AND FREE ELECTIONS.
1798 $138 IN LAND OWNERSHIP FOR STATUS OF FREEMEN IN RI. ONLY FREEMEN MAY VOTE.
1833 PROVIDENCE MILITIA PROTESTS BECAUSE MOST HAVE NO LAND AND ARE DENIED THE VOTE.

The Governor and Assembly were very nervous about the parades and those men and women demanding voting rights. In 1842 the Assembly passed the Algerine Law with penalties for those working for the People's Party. If a person held office in the People's Government he was accused of treason.

WHAT IS TREASON?

WAS THE ALGERINE LAW FAIR TO MEMBERS OF A MINORITY POLITICAL PARTY?

WHY?

In the spring of 1842 events happened quickly. The Governor asked President Tyler for protection for the state. The Governor was afraid of rebellion. On April 18, Thomas Dorr was elected Governor in the People's Election. In the Charter election Samuel Ward was re-elected Governor. In May the People's Legislature met and named Dorr Governor. Dorr then went to Washington to obtain help from the President. The President did not offer any help. Shortly after, Governor Ward declared martial law because he felt that there was rebellion against the state.

SHOULD WARD HAVE BEEN AFRAID ?

WERE THE ACTIONS OF THE CITIZENS REBELLIOUS ?

About 2 o'clock in the morning of May 18, more than two hundred men led by Thomas Dorr marched to the Arsenal on the Cranston Road. The group brought two Revolutionary War cannons with them to capture the weapons in the Arsenal. Many other citizens rush to the Arsenal to see the battle. Even though he had relatives on guard inside the Armory, Dorr ordered the men to fire the cannons. But the cannons were old; the powder was dry and hard. They wouldn't fire. Dorr's men scattered to avoid capture and arrest. Dorr fled from Rhode Island.

DORR TRIED FORCE TO TAKE OVER THE STATE GOVERNMENT .

DID HE FAIL ? WHY ?

1833 SETH LUTHER GAVE SPEECH (LATER PRINTED AND DISTRIBUTED) "ADDRESS ON THE RIGHT OF FREE SUFFRAGE".

1840 *NEW AGE AND CONSTITUTIONAL ADVOCATE,* PRINTED IN PROVIDENCE, ARGUES FOR EQUAL VOTING RIGHTS.

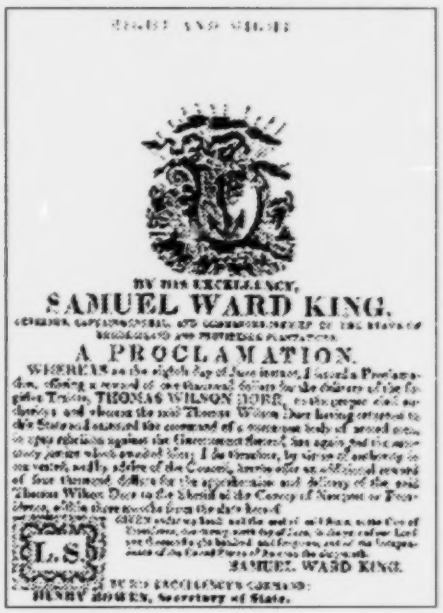
1841 HUGE VOTING RIGHTS RALLY IS HELD IN PROVIDENCE.

Unrest continued through the year. In late June, Dorr returned and met his men in Chepachet. The militia marched there. Quickly they captured and imprisoned Dorr's men, the Dorrites. He again fled from Rhode Island. In order to bring Dorr back for trial, Governor King posted a $5000 reward. In addition, many other citizens active in the fight for more representation and voting rights were arrested and imprisoned. Seth Luther was one of these. By August 8, martial law was ended. The final act of the year by the Assembly was to order a convention to provide for voting rights for all native born males, including blacks. The citizens of the state approved this new law.

WAS THE NEW LAW A GOOD ONE ? WHY ?

WHAT WOULD HAVE MADE IT A BETTER LAW ?

WANTED POSTURE OFFERING $1,000 FOR INFORMATION LEADING TO THE ARREST OF THOMAS DORR



BY HIS EXCELLENCY,

SAMUEL WARD KING,

A PROCLAMATION.

WHEREAS on the eighth day of June instant, I issued a Proclamation, offering a reward of one thousand dollars for the delivery of the fugitive Traitor, THOMAS WILSON DORR, to the proper civil authority; and whereas the said Thomas Wilson Dorr having returned to this State and assumed the command of a numerous body of armed men in open rebellion against the Government thereof, has again put the aforesaid proclamation in force: I do therefore, by virtue of authority in me vested, with advice of the Council, hereby offer an additional reward of four thousand dollars for the apprehension and delivery of the said Thomas Wilson Dorr to the Sheriff of the County of Newport or Providence, within three months from the date hereof.

GIVEN under my hand and the seal of said State, at the City of Providence, the twenty-sixth day of June, in the year of our Lord one thousand eight hundred and forty-two, and of the Independence of the United States of America the sixty-sixth.

L. S.

SAMUEL WARD KING.

BY HIS EXCELLENCY'S COMMAND:

HENRY BOWEN, Secretary of State.

In October ,1843, Dorr returned to Providence, still arguing for voting rights for all. He was arrested for high treason under the Algerine law. Pleading not guilty, he was put into the Providence Jail.

DID EVERYONE HAVE THE RIGHT TO VOTE ?

SHOULD DORR HAVE BEEN ARRESTED? ON WHAT CHARGE ?

1841 PEOPLE'S CONVENTION WRITES CONSTITUTION GIVING VOTING RIGHTS TO WHITE MALE CITIZENS WHO HAVE LIVED IN RI AT LEAST ONE YEAR.

1841 PEOPLE'S CONSTITUTION ACCEPTED BY MORE THAN THIRTEEN THOUSAND CITIZENS.

THE TRIAL

Thomas Dorr was tried by the Supreme Court of Rhode Island under Judge Job Durfee, Chief Justice. He was judged by a twelve member jury. The jurors were selected because of their opposition to the People's Party. Attorney General Joseph Blake and Attorney Alfred Bosworth represented the people.

Dorr decided to represent himself, but was soon assisted by attorneys George Turner and Walter Burges. His defense rested on the point that he was duly elected Governor when he took men to the Arsenal and when he lead men at Acote Hill in Chepachet.

WHICH COURT TRIED DORR ? IS THIS USUALLY A TRIAL COURT ?
SHOULD DORR REPRESENT HIMSELF ? SHOULD ANY PERSON ?

Dorr planned also to note that acts committed against the state were not treason. Only acts against the federal government are treason. The Justices did not allow this defense and did not recognize Dorr as a duly elected state official.

Justice Durfee pointed out to the jury that they were to decide whether or not Dorr had done what was charged. Dorr did not deny his actions during the trial. At the beginning, however, he did claim that if the treasonous acts were committed in Providence, he should be tried in Providence. He wanted a jury of Providence men. Justices Durfee, Levi Haile, William Staples, and George Brayton refused to move the trial site. They ruled that he would receive a fair trial with a jury from Newport County.

WAS DORR RIGHT? SHOULD THE TRIAL BE IN PROVIDENCE?
WAS NEWPORT A FAIR PLACE FOR DORR'S TRIAL?

1842 GOVERNMENT DOES NOT ACCEPT REFERENDUM; THREATENS SUPPORTERS OF SUFFRAGE MOVEMENT.

1842 LANDHOLDERS CONSTITUTION GIVE VOTE TO WHITE MALE NATIVE BORN CITIZENS; REQUIRES PROPERTY FOR IMMIGRANTS.

Dorr also protested that the Algerine Law was "against the common right, unconstitutional and void". He pleaded "...not guilty..." again. The Attorney General denounced the pleas and argued that the Algerine Law had been accepted by the Court. One hundred and nineteen possible jurors were given the same series of questions:

1. Did you attend the reading of the indictment?
2. Have you expressed an opinion that T.W. Dorr is guilty?
3. Did you vote for Mr. Dorr in April, 1942?
4. Do you believe that Dorr was Governor at any time between 16 May , 1842 and 28 June, 1842?
5. Are you a relative of T.W. Dorr?
6. Are you a freeholder in the County of Newport?

Dorr objected to questions 3 and 4 as unreasonable and improper. Objection denied.

ARE THE QUESTIONS UNFAIR ?

WHAT DO "OBJECTION "AND "DENIED "MEAN ?

From the one hundred and nineteen names, sixteen were drawn. Abner Tallman and John Cornell expressed opinions. Forbes Manchester was associated with the democratic party. Each was dismissed. Dorr protested all jurors. He said that a lawyer, William Cranston, was from the court and had gone with Sheriff Goerge Howland in selecting those men for jury duty. Objection denied.

The following were selected for jury duty:

Benjamin Carr, Tiverton
Asa Davol, Tiverton
David Seabury, Tiverton
Richard Norman, Newport
Benjamin Corey, Tiverton
Charles Howland, Little Compton
William Melville, Newport
William Card, Newport
Joseph Paddock, Newport (Foreman)
William Southwick, Newport
Borden Chase, Portsmouth
Jonathan Coggeshall, Portsmouth

1842 LANDHOLDERS CONSTITUTION DEFEATED WHEN LAWYERS SPOKE OUT AGAINST IT.
1842 APRIL 18, DORR ELECTED GOVERNOR IN PEOPLE'S ELECTION.
1842 GOVERNOR ASKS PRESIDENT TYLER FOR HELP AGAINST REBELS.

IF YOU WERE ONE OF THE JUSTICES, WOULD YOU HAVE OVERRULED DORR'S OBJECTION ? WHY ? WHY NOT ?

THE PROSECUTION

Attorney General Blake outlined the crimes against the State of Rhode Island Dorr had committed. He lead an armed force against the Arsenal. He had another army in Chepachet to march against Providence. These were acts of treason against the State of Rhode Island. He added that "...if Mr. Dorr were Governor, then he had a right to do what he did...but he wasn't Governor."

WHAT CRIMES OF TREASON DID DORR COMMIT ?

WITNESSES FOR THE PROSECUTION:

JEREMIAH BRIGGS: "I saw Mr. Dorr at the Assembly in the Foundry on May 3. He swore to protect the Constitution of the United States."

WILLIAM BURNOUGH: "I was at the Foundry and saw men armed and unarmed at Anthony's House on Federal Hill on the 18th."

LEVI SALISBURY: "I was at the foundry and later saw men with guns and swords on Federal Hill moving toward the Arsenal."

ROGER POTTER: "I saw Dorr at the Foundry meeting. He took an oath for the People's Party."

COLONEL ROGER BLODGETT: "I saw Dorr with men. He said,'...his sword had been dipped in blood once and before he would yield up rights of the people, it would be buried in gore to the hilt...' I also saw the cannons set up in front of the Arsenal. They wouldn't fire."

IS ANY OF THIS TESTIMONY HARMFUL TO DORR?

1842 GOV. SAMUEL WARD WINS STATEWIDE ELECTION.
1842 PEOPLE'S LEGISLATURE INAUGURATES DORR AT FOUNDRY CONVENTION.
DORR GOES TO SEE PRESIDENT TYLER FOR HELP.

HENRY HAZARD: "There was heavy fog on the night of the crowd at the Arsenal. I didn't see Mr. Dorr there."

OMAN MOFFETT: "Dorr was outside the Arsenal, running around with a torch. He wanted to set off the cannons. They only flashed, they didn't fire."

HIRAM CHAPPELL: "Men were supposed to come from New York. On June 24 at Chepachet, I saw 250 to 300 men under arms. Breastworks were built. Isaac Allen was in command. Dorr read a letter to the men and then they dispersed in confusion. Seth Luther was there. The men from New York weren't coming. Friends also did not want to see any bloodshed."

GENERAL WILLIAM POTTER: "I saw Dorr in command at Chepachet. There were 225 men in arms there."

IS ANY OF THIS TESTIMONY DAMAGING TO DORR?

SUMMARY OF PROSECUTION:

Alfred Bosworth summarized the testimony. He read the list of those who saw Dorr leading the men at the Arsenal. He commented about Dorr being seen moving about in front of the Arsenal with a torch in his hand. About the cannons not firing. He went over the testimony about Dorr at Chepachet in command of the armed men there. He summed up by saying that "...the jury must pronounce the prisoner guilty..."

WOULD YOU AGREE WITH THE PROSECUTION THAT DORR SHOULD BE FOUND GUILTY?

1842 ON MAY 18, ABOUT 2 AM, DORR'S MEN MOVE FROM BARRINGTON TO ANTHONY'S HOUSE ON FEDERAL HILL TO CRANSTON STREET ARSENAL.

1842 ASSEMBLY DECLARES MARTIAL LAW. MILITIA CAPTURES DORR'S MEN IN CHEPACHET. MARCHES THEM TO PROVIDENCE IN CHAINS.

THE CASE FOR THE DEFENSE

GEORGE TURNER: "Men of the jury, it is your responsibility to listen, to weigh the evidence. Mr. Dorr is accused of treason. He did not commit treason. He acted as the duly elected Governor of the State of Rhode Island in all that he did."

He continued by pointing out that treason can only be against all of the states, not one. The Act of Rhode Island, 1842, the Algerine Law is "null and void". The Act does not give the Court a right to try the case in Newport.

WHY IS THE PLACE OF TRIAL IMPORTANT TO DORR ?

He repeated the point that Dorr acted justifiably as Governor under a valid Constitution adopted by the people. He ended his comments by saying that the evidence presented by the prosecution did not support the "charge of treasonable and criminal intent of the defendant ".

WHAT DOES CRIMINAL MEAN ?

WITNESSES FOR THE DEFENSE

COL. CHARLES CARTER: "I escorted Governor Dorr from High Street to the foundry. I saw no persons unusually armed. I guarded Gov. Dorr at the Arsenal. It was a very foggy night. He did not have a torch or light in his hand...".

After the guns flashed, men began to scatter.

"Dorr took men and one gun back to Anthony's house. I took the other..."

"When Dorr left Anthony's house, some 600 to 800 charter troops arrived. I was also Dorr's aide at Chepachet. There were about 200 volunteers there. Dorr met with the officers and ordered them to disband. We left there and stayed at Stile's Hotel in Thompson, Connecticut. Dorr addressed the troops under the standard to 76."

1842 GOVERNOR OFFERS $5000 REWARD FOR DORR - SETH LUTHER ARRESTED.
1842 AUGUST 8, MARTIAL LAW ENDED. VOTERS APPROVE NEW CONSTITUTION.

JOHN HARRIS: "I know how many votes of the People's Constitution are and where they are."

ATTORNEY GENERAL: "Objection !"

COURT: "Such testimony is not relevant at all to this issue. The prisoner must disprove the facts of the conspiracy, not confirm it".

IS THE TESTIMONY OF CARTER HELPFUL TO DORR ?

DORR: "Your honor, we do not agree with this ruling."

Colonel Benjamin Darling and Samuel Wales saw Dorr on Federal Hill, but they agreed that there was no language about his 'sword being dyed in blood'.

NATHAN PORTER: "Dorr said that the sword belonged to a brave man who died in the Florida War. It had never been dishonored and never would be..."

JOSHUA HATHAWAY: "Governor Dorr had no torch at the Arsenal."

Mr. Turner reviewed the points of treason he had stated earlier. He pointed out again that Dorr did not commit treason. He acted as duly elected Governor of Rhode Island.

COURT: "Mr. Turner, you raise a political question that cannot be answered here. We know and can know only one government in the state. Your statement cannot go to the jury. Your words are stricken from the record."

TURNER: "The people have a perfect right to reorganize the government and they did so."

COURT: "We cannot hear this argument. Your words are stricken."

TURNER: "I wish to show the jury a copy of the People's Constitution."

COURT: "Permission refused. This is immaterial, irrelevant and inadmissible."

DORR: "This is hanging a man first, and trying him afterwards. I am a man and claim the right of one."

1842 GENERAL ASSEMBLY ORDERS CONSTITUTION FOR VOTING RIGHTS FOR ALL NATIVE BORN MALES, INCLUDING BLACKS.

1842 VOTERS APPROVE THIS NEW CONSTITUTION.

HOW MANY TIMES HAS THE COURT AGREED TO AN OBJECTION BY DORR ?
WHAT IS TURNER TRYING TO PROVE WITH A COPY OF THE CONSTITUTION ?

On the order of the Court, Dorr is escorted out and is allowed to return only when he agrees to apologize to the court for speaking out. He does so, and is permitted to return to his seat.

WHAT DID DORR DO THAT WAS NOT CORRECT IN COURT?

JUSTICE HAILE: " The State must have been ignorant to pass a law making the court instruct the jury in matters of law. This court decides the law, not the jury. The jury decides the case on what the Court tells them."

SHOULD A JUDGE INSTRUCT THE JURY IN THE LAW ?
SHOULD A JURY HAVE ALL FACTS AVAILABLE IN ORDER TO REACH A JUDGMENT?

The Court then agreed to hear arguments against Part I of the indictment-treason against the United States. A three hour argument between Turner and Bosworth developed. Each presented statements of famous lawyers and government officials, all from England, to support their arguments. Justices Durfee and Staples added their own thoughts.

JUSTICE DURFEE: "The right of the People (in the War) to change the government led to force and war."

STAPLES: "The Constitution (US) was ratified by people who were voters, not the People at large."

1843 IN "AN ADDRESS TO THE PEOPLE OF RHODE ISLAND", DORR DEFENDS VOTING RIGHT FOR ALL THE PEOPLE.

1843 OCTOBER 31, DORR RETURNS TO PROVIDENCE. HE IS ARRESTED OF HIGH TREASON AND PUT INTO PROVIDENCE JAIL. PLEADS NOT GUILTY.

TURNER*(quoting the US Constitution)* : "If treason is not against the United States, then is a misdemeanor a minor act ? If what is described here is against the United States - not just Rhode Island- then the United States Court has jurisdiction."

WHAT IS TREASON ?

WHAT DOES THE CONSTITUTION SAY ABOUT TREASON ?

WHAT ARE THE PUNISHMENTS FOR COMMITTING TREASON ?

Mr. Bosworth argued that treason can be against any state, not just against the United States. He used several references to support his argument.

COURT: "The Court agrees with the Plaintiff. The indictment of treason against Rhode Island stands."

CLOSING ARGUMENTS FOR THE DEFENSE

Dorr continued to point out that what he did, he did as the "...duly elected Governor of Rhode Island..." and acted under "...a rightfully adopted, and valid State Constitution..." which he pledged to support. He said that the Court would not allow him to present proof of election or proof of adoption of the Constitution. He closed by saying,

" I commit my cause to your hands with a just hope for your favorable consideration."

COULD DORR HOPE FOR A FAVORABLE DECISION FROM THE JURY ?

WHY ? WHY NOT ?

HE SAID EARLIER THAT THE CHARGES AGAINST HIM WERE VAGUE .

DO YOU AGREE ?

ARGUMENTS FOR THE PROSECUTION

MR. BLAKE: "There are many opinions here. How many voters voted? How many adult male voters? What did they intend when they vote?"

"Dorr collected forces in Providence and Chepachet to take public property. He wished to overthrow the existing government. We judge men's motives by their acts. We know that to wage war against the state is treason. Mr. Dorr waged war against the state."

1844 DORR TRIED BY ALL MEMBERS OF RI SUPREME COURT AND TWELVE MEMBER JURY IN NEWPORT.

MR. BLAKE: "If the defendant did wage war , you must find him guilty. He has confessed to all of the facts. You must act as the serious guardians of the law."

IS THE JURY A GUARDIAN OF THE LAW ?

WHAT DOES THAT MEAN ?

JUSTICE DURFEE GIVES CHARGE TO THE JURY

Justice Job Durfee pointed out that the charge of Treason against the State is the highest crime according to the law. "Allegiance is due to the state and treason may be committed against any state of the Union."

Justice Staples joined in the charge by pointing out that even though Mr. Dorr believed that he was the Governor of Rhode Island and acted under this belief, he still has legal guilt. " Such thinking would be the end of all government. If a person commits a crime and thought he had a right to commit it, he is not right. The crime is wrong. Only the Legislature counts the votes and determines who is Governor."

JUSTICE DURFEE (to the jury): "The Court has performed its duty;
go ye gentlemen and do yours."

The jury went into session at 10:45 on Tuesday morning. At 1:40 pm in the afternoon of Tuesday, the jury returned to the courtroom and pronounced the verdict.

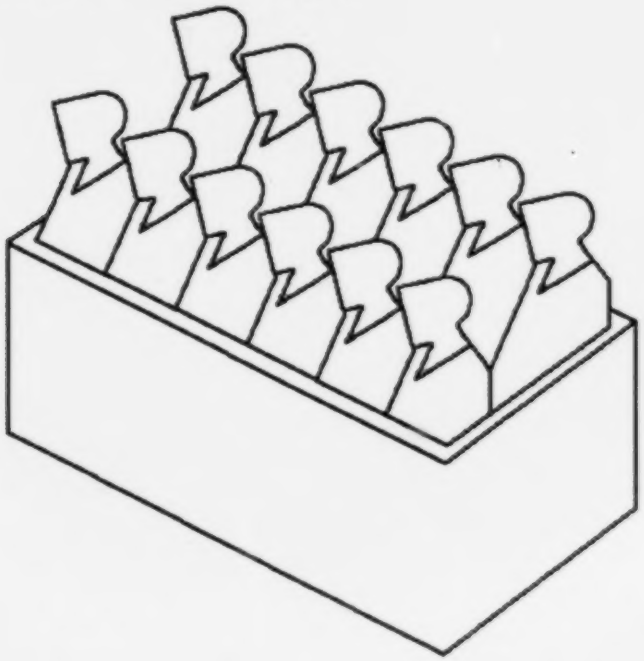
THE DECISION

YOUR TEACHER WILL GIVE YOU THE DECISION OF THE JURY.

1844 CHIEF JUSTICE DURFEE DOES NOT ALLOW DEFENSE ON DORR'S BEING "DULY ELECTED" GOVERNOR AT TIME OF HIS ACTIONS.

YOU BE THE JUDGE

1. What is a fair trial? Was T.W. Dorr given a fair trial?
2. What did Dorr do? Was he rights in what he did?
3. Would a jury in Providence give a different verdict from that of a jury in Newport? Why? Why not?
4. Which witnesses helped Dorr? Which witnesses hurt him?
5. Colonel Carter was going to be a witness for the prosecution. Why do you think they didn't call him as a witness?
6. Was the issue of the sword in Dorr's hand important? Why?
7. Was the issue of Dorr's having a torch or not having a torch important? Why?
8. Was Justice Staples correct when he used the example of someone committing a criminal act? Did Dorr commit a criminal act?
9. Was the charge to the jury clear? Why? Why not?
10. How would you have voted as a member of this jury? Could you have been a member of this jury?



1843 PEOPLE'S CONSTITUTION WAS FOR WHITES; NO VOTES TO BLACKS. ALEXANDER CROMWELL AND OTHERS PROTESTED.

1843 RI CONSTITUTION (ART1, SEC. 4) BANS ALL SLAVERY.

PEOPLE OF RHODE ISLAND V.

JOHN GORDON AND WILLIAM GORDON

CHARGE: MURDER

BACKGROUND

The Sprague Print Works was near Dyer's Pond in what is now the area between Cranston and Johnston. Near the woods is the Sprague Mansion, the home of Amansa Sprague and his brother, William. While William would eventually become Governor of Rhode Island and United State Senator from the state, Amansa was " ...a gentleman of high standing in the community...". He was "...an unflinching advocate of the temperance movement ". But in addition to hating liquor and speaking out against drinking, Amansa was a senior partner in the firm of A & W Sprague. This business which included the print works also dealt in real estate and other manufacturing. Amansa was known for his charitable work in the community, as well as for his wealth and ability in business. He was very influential in the area.

THE CRIME

In a populated area by the "...side of a beaten path..." , the dead body of Amansa Sprague was found. The day was Sunday, December 31, 1844. Mr. Sprague had been beaten on the head with a gun. The gun had been found near the body. Its barrel was bent and the gun was broken. The victim had been struck many times. There were no witnesses to the crime even though there were many houses nearby. The neighbors called this place Hawkin's Hole.

WHAT MADE THIS A PARTICULARLY TERRIBLE CRIME ?

WAS AMANSA SPRAGUE AN IMPORTANT MAN IN THE COMMUNITY ?

COULD THIS HAVE AN EFFECT ON THE TRIAL ?

1827 BY STATUTE..."COURTS WILL INSTRUCT THE GRAND JURIES..."
1852 PETITION TO GENERAL ASSEMBLY TO END DEATH PENALTY.

BACKGROUND OF THE TRIAL

The "...accused were Irishmen...brothers ". Nicholas Gordon was accused of knowing about the crime before it happened. His brothers, John and William Gordon, were charged as those who committed this terrible murder. Once they had been arrested and evidence against them had been put before the grand jury, John and William Gordon were jailed until their trial.

The trial of John Gordon and William Gordon, charged with the murder of Amansa Sprague, was set for March, 1844. The Supreme Court of Rhode Island and Providence Plantations would hear the case. Chief Justice C.J. Durfee and Associate Justices Staples, Hale, and Brayton would be in charge. The case would be heard in the Supreme Court Building on Benefit Street in Providence.

THE ACCUSED WERE CALLED IRISHMEN.

COULD THAT NAME IMPACT THE TRIAL ?

THE TRIAL

The prosecutor, Mr. Potter, said that the motive for the crime was that Amansa Sprague had helped to stop Nicholas Gordon from getting a license to sell 'spirituous liquors'. Potter brought forth witnesses who heard Nicholas threaten Mr. Sprague with death. The prosecutor provided evidence - a broken gun, an old coat and wet boots- which linked John Gordon and William Gordon to the "cruelly beaten body of Amansa Sprague".

WHAT IS A MOTIVE ?

WHAT WAS THE MOTIVE FOR THIS CRIME ?

1647 COLONY CODE INCLUDED DEATH PENALTY AS "...PUNISHMENT FOR ...HIGH TREASON, MURDER, BURGLARY, ARSON, RAPE..."
1718 ARSON AND RAPE DROPPED FROM LIST OF CRIMES PUNISHED BY HANGING.
1731 UNDER THE DIRECTION OF MAJOR WILLIAM SMITH A COURT HOUSE AND JAIL. COMBINATION IS BUILT IN PROVIDENCE
1733 PROVIDENCE JAIL SOLD.

Potter continued by tracing footprints from the scene of the crime near the old foot bridge to the swamp and then to the back door of Nicholas Gordon's house. He had the coroner testify about the terrible wounds on the body and the horror of the crime scene. And finally, he provided testimony about John Gordon's eye and face which were seen with bruises on January 1, the day after the murder.

WHAT IS EVIDENCE ?

WHAT EVIDENCE DID THE PROSECUTOR HAVE ?

THE DEFENSE

Mr. Carpenter, attorney for the defense, requested that each man be tried separately. He argued that by trying the three together their civil rights would be violated and they could not be given a fair trial. Judge Durfee denied the request.

SHOULD NICHOLAS HAVE BEEN CHARGED SEPARATELY SINCE HE WAS ACCUSED OF CAUSING THE OTHERS TO COMMIT THE MURDER ?

THE PROSECUTION

DR. ISRAEL BOWEN: "There had been a struggle near the foot bridge...blood was on the snow. Farther down the ledge of rocks which formed a small cavern, the ground was trampled again with more blood around. Mr. Sprague had fought his attackers. He had a bone near the temple broken; under the jaw was also fractured. A wound in the arm seemed to be caused by a musket ball."

STEPHEN SPRAGUE: "Near the body I found a sliver which had come off a musket or pistol. There was blood and hair on it and blood on the snow around the piece."

WALTER BEATTIE: "Yes, this is the coat that was found (a long blue coat). We found it in the swamp water. Blood was on the right arm of the coat, and on the front."

1797 ARSON AND RAPE ARE ADDED AGAIN TO THE LIST OF CAPITAL CRIMES.
1838 ONLY MURDER AND ARSON ARE TO BE PUNISHED BY DEATH. THE COURT WILL DECIDE ABOUT PRISON TERMS FOR OTHER CRIMES.

HORATIO WATERMAN: "It was the same track all along *(the footprints in the snow).* I should think the man was on the run; the tracks were wide apart. They went to where the coat was. We followed them to within five or six feet of Nicholas Gordon's door."

WOULD YOU HAVE ARRESTED NICHOLAS GORDON ,

BASED ON THE TESTIMONY HERE ?

WOULD YOU HAVE ARRESTED JOHN AND WILLIAM ALSO ? WHY ? WHY NOT ?

MR. POTTER, PROSECUTOR: "Mr. Briggs, do you recognize this gun?"

HARDIN BRIGGS: "I saw Nicholas Gordon with a gun last fall. It was an old fashioned gun changed into a percussion lock. This gun is very much like Gordon's gun."

MR. POTTER: "Your honor, I wish to enter this gun found in the swamp on the day of the murder as an exhibit."

JUSTICE DURFEE: "So admitted."

WHAT IS AN EXHIBIT IN COURT ?

HOW IS SOME ITEM ENTERED AS AN EXHIBIT IN COURT ?

Mr. Potter questioned William Barker and Nehimiah White about what they saw on the day of the murder. Both placed John and William Gordon on the Cranston Road before and after the crime. Barker said that he and a friend saw two men before the time of the crime going hunting in the Dyer's Pond area. Later they saw the two men, one now in shirtsleeves and without the gun walking quickly back towards the city.

One Thousand Dollars Reward

The undersigned is authorized by friends of the family to offer the above reward for such information as will lead to the conviction of the person or persons who were concerned in the murder of Amasa Sprague, Esq. of Cranston, on Sunday last, December 31st, in the Town of Johnston.

Roger W. Potter, Sheriff.

January 1, 1844.

WANTED POSTER OFFERS $1000. REWARD FOR THE MURDERERS OF AMANSA SPRAGUE

1838 PRISON BUILT BY THE STATE AT GREAT POINT, PROVIDENCE.

1845 11:00 AM, LAST PERSON HANGED FOR MURDER IN RHODE ISLAND.

1852 ALL CAPITAL PUNISHMENT ABOLISHED, EXCEPT FOR MURDER COMMITTED BY ONE SENTENCED TO LIFE IMPRISONMENT.

1857 LIBRARY AND WORKSHOP ADDED TO PRISON IN PROVIDENCE.

MISS SUSAN FIELD: "That blue coat is the one Nick's dog used to lay on. I also heard Nick say, 'Amansa Sprague has taken my license and _____ _____ that man. I will be the death of him. I'll get my revenge.' John was there when he said that."

Mr. Potter questioned others about the scene at the King's Tavern when news of the murder came. Several said that everyone wanted to see the body at Dr. Miller's house. When they reached the house only John Gordon did not go inside. He turned and walked away. Mr. Potter asked each witness if he thought this strange. Each replied that it was strange because everyone was horrified by the crime and wanted to view the body and the scene of the crime.

WHICH TESTIMONY SO FAR IS MOST DAMAGING TO THE GORDONS ? WHY ?

MR. POTTER'S SUMMATION TO THE JURY

Mr. Potter reviewed the evidence of the wounds of the body, the gun found in the area of the crime, the coat given by Nicholas to John which was found in the swamp, and the threat made by Nicholas in the presence of John.

MR. POTTER:"Your oaths call upon you to say, under the law and evidence given to you, whether, they are guilty or not guilty; the consequences *(death by hanging, if found guilty)* do not rest upon your heads. You are to do your duty fearlessly, manfully and without fear or favor."

WHICH EVIDENCE HURT THE GORDON'S CASE MOST ?
SHOULD THE JURY DECIDE GUILTY OR NOT GUILTY
WITHOUT THINKING OF THE PENALTY ? COULD YOU ?

1869 STATE FARM, WORK HOUSE, ASYLUM FOR INSANE AND POOR HOUSE BUILT ON PONTIAC ROAD IN CRANSTON.
1874 PRISON ADDED TO COMPLEX ON PONTIAC ROAD.

THE CASE FOR THE DEFENSE:

General Carpenter talked about the poverty and friendless condition of the prisoners. They had not been accepted by the community. They had to have clothes given to them by Nicholas. He spoke of the difficulty he had in finding witnesses willing to testify for them. He did have witnesses, however, who would establish that William was in Providence at 3 o'clock on the day of the murder. This fact would be established beyond all reasonable doubt.

WHAT IS REASONABLE DOUBT?

IS THE POVERTY OF THE ACCUSED IMPORTANT IN THEIR CASE?

Colonel Atwell continued for the defense. He went over the evidence of the broken gun, the coat which was old and tattered and might have been thrown away because the dog did lay on it. He said the boots of John Gordon were wet because of the snow that day. He added that the gun was said to be "...like the gun..." owned by Nicholas Gordon. He closed his argument by stating that all of the evidence was extremely circumstantial, that much of the case of the State was built on chance and coincidence.

WHAT IS CIRCUMSTANTIAL EVIDENCE?

CAN YOU GIVE AN EXAMPLE

OF CIRCUMSTANTIAL EVIDENCE FROM THIS TRIAL ?

THE CHARGE IS GIVEN TO THE JURY:

Chief Justice Durfee stated that the jury might find both men guilty or not guilty or one guilty and the other, not. He urged that the prisoners must be presumed innocent until proven guilty.

1960 MINIMUM SECURITY PRISON BUILT IN CRANSTON.
1974 STATE OF RHODE ISLAND SENTENCES MAN TO DEATH FOR COMMITTING MURDER WHILE A PRISONER AT THE ACI.

SHOULD THE JUDGE HAVE TALKED ABOUT

INNOCENCE AND GUILT IN THE BEGINNING?

THE JURY DECIDES:

The jury retired at half past six o'clock. At a quarter before eight the jury returned the verdict.

"What say you, Mr. Foreman, is John Gordon guilty or not guilty?"

WHAT WAS THE DECISION OF THE JURY?

THE JURY MET FOR A VERY BRIEF TIME. WAS THIS TIME ENOUGH TO CONSIDER A CASE INVOLVING THE DEATH PENALTY ?

THE DECISION OF THE JURY:

YOUR TEACHER WILL GIVE YOU THE DECISION OF THE JURY.

YOU BE THE JUDGE:

1. List the evidence against the Gordons. Decide which might be circumstantial.
2. What have wealth and poverty to do with this trial?
3. Did the Gordons receive a fair trial? Why? Why not?
4. Should the brothers have been tried separately? Why?
5. William Sprague resigned his seat in the US Senate to organize the search for his brother's killer. Would this have an effect on the trial? What effect?
6. In his petition to the Governor, John Gordon had members of the jury swear that a gun belonging to Nicholas had been shown to them. This petition was denied. Should it have been? Why? Why not?

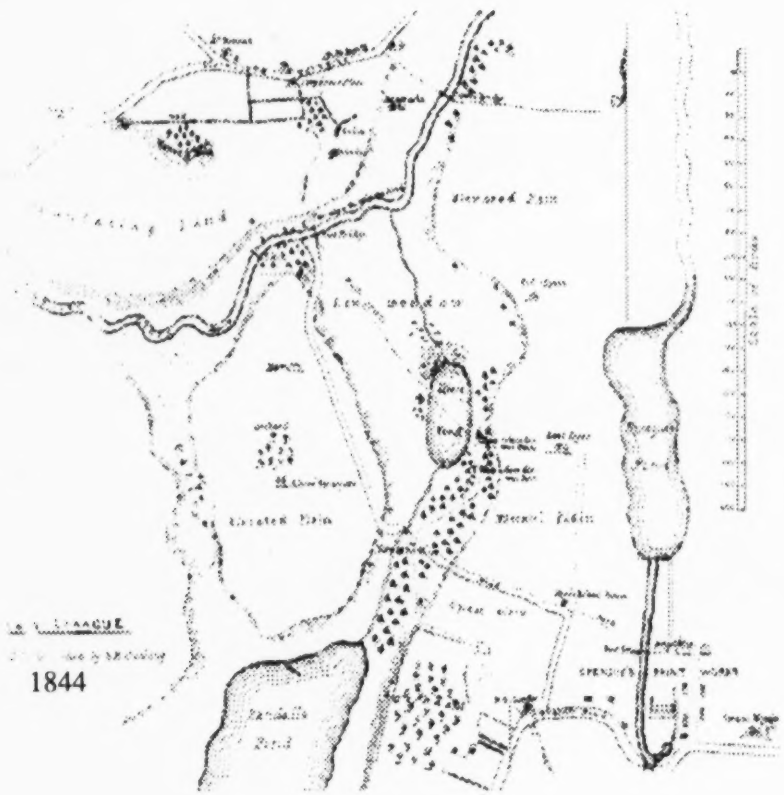
1979 SUPREME COURT OVERRULES SUPERIOR COURT AND REVOKES THE SENTENCE OF DEATH GIVEN IN 1974 CASE.

7. The jurors were told that they should not be concerned about the punishment. Should they have been concerned? Would that have influenced their decision? Would it influence yours if you were on the jury? Why?

8. Nicholas was the person who caused the murder to happen, yet he was released. Was that fair? Why?

9. William was seen walking rapidly from the area of the murder with John. He was found not guilty. Would you have found him not guilty? Why?

10. One woman gave a statement before the trial. The judge did not allow the defense to call her as a witness. Her statement against John Gordon was read into the record of the trial. Should that have been allowed? Why? Why not?



MAP DEPICTING THE SPRAGUE ESTATE

1989 SUPER MAXIMUM PRISON IS BUILT TO HOUSE THE MOST DANGEROUS CRIMINALS.

BEST COPY AVAILABLE

STATE OF RHODE ISLAND V. ROBERT CLINE

CHARGE: FIRST DEGREE MURDER

BACKGROUND:

On April 11, 1974, in the parking lot of a Providence housing project, Frank Pirri was shot and killed. Pirri was a fish peddler who visited the project each week to sell fish. On this day, he was robbed and shot by two men. Witnesses described the men for police.

On April 14, 1974, a man fitting the description of one of the men was walking on Cranston Street in Providence. Robert Cline, age 23, was arrested by Providence Police. He was given the Miranda warning and taken to Police Headquarters. He signed a paper stating that he had been read his rights.

WHY WAS ROBERT CLINE ARRESTED ?

For a period of time, Cline was questioned by Detective Gerald McCarthy. He was then taken to the court to be charged. He was charged with the murder of Frank Pirri and was refused bail. A public defender, Attorney Harry Hoopis, was appointed for him. Cline agreed to go to the Point Street Bridge to show the police where the gun was thrown. Returning to headquarters, he was identified in a line up. He was also identified as an escapee from the Adult Correctional Institution. Cline was sent back to the ACI to await trial.

WAS CLINE ALLOWED BAIL? WHY ?

1638 PORTSMOUTH ORDERS STOCKS AND WHIPPING POST.
1639 FIRST JAIL AT PORTSMOUTH IS 12' X 10' 10'.

PRE-TRIAL MOTIONS AND REQUESTS:

During the time after he was arrested, Robert Cline spoke with Detective McCarthy. He was read the Miranda rights from a form and he signed the form. Then he gave and signed a partial confession, admitting that he shot the victim during a holdup. After about forty five minutes, the defendant asked to be represented by a lawyer.

Sgt. McCarthy stopped questioning him and called Attorney Harry Hoopis. Hoopis was assigned by the Court to represent any person arrested for the Pirri murder. Hoopis came to Police Headquarters. Talking with Cline, he told the police that he and Cline would go with them to the Point Street Bridge. Cline said that he had disposed of the murder weapon there. When they returned from the Bridge, Cline was put into a line up and identified as one of the men who shot Pirri.

WHAT ARE THE MIRANDA RIGHTS ?

LIST CLINE'S MIRANDA RIGHTS.

During the next several months defense attorneys asked that the confession be suppressed, because Mr. Cline said he had been beaten. He also said that he had not been given his Miranda rights. He said that he did not sign the form with free will. Judge Gianninni found that Mr. Cline changed his story several times and even contradicted himself on some points. Examination by a physician did not reveal any marks which might have been caused by a beating. Testimony was provided by Dr. Donahue from the ACI, who examined Robert Cline on the day of his arrest. Mr. Cline made no comments to the Doctor about being beaten or kicked at the police station.

IS CLINE'S STORY BELIEVABLE?

1647 CODE OF COLONY INCLUDED DEATH PENALTY FOR MURDER.
1661 THEFT OF A WATCH IN PROVIDENCE SENTENCED TO SEVERE WHIPPING AND IF FINE NOT PAID (L12) TO BE SOLD AS A SERVANT FOR SEVEN YEARS.

Dr. James Brown, who examined Mr. Cline at the hospital on May 14, said that Cline had said he had been beaten with a heavy stick, such as a billyclub. He noted marks on April 14. Mr. Cline said he had been beaten again when he was to be taken to the ACI. Reverend August Delvaux, Police Chaplain, said that he saw no one stepping on Cline's hands or beating him in the place where Cline said that it occurred.

JUDGE GIANINNI: "Motion to suppress the confession is denied."

WHY DID THE DEFENSE FEEL THAT THE CONFESSION SHOULD NOT BE PART OF THE TRIAL ? DO YOU AGREE ?

Mr. Cline said that he had been drinking and smoking marijuana on the day he was given Miranda rights. He said that he could not have waived them.

JUDGE GIANINNI: "Since the confession was voluntary, the motion is denied."

Mr. Cline then objected to the police questioning him before he talked with his attorney. He argued that since the Court had appointed Mr. Hoopis, he should have been allowed the attorney during questioning. Judge Gianninni ruled that by making statements to the police before he met with his counsel waived his right to counsel.

The defense argued that his confession was not voluntary because the police did not warn him of how severe a punishment there was for murder. The Court ruled that police should not give an estimate or warning concerning maximum penalties.

LIST THE MOTIONS TO THIS POINT. SHOULD A DEFENDANT BE ALLOWED TO MAKE A LARGE NUMBER OF MOTIONS AND OBJECTIONS ?

1672 THE POOR WHO CANNOT PAY THEIR BILLS SHALL NOT BE PUT INTO PRISON.
1685 PROVIDENCE ORDERS JOHN DEXTER TO BUILD STOCKS.
1687 A MARRIED WOMAN WAS SENT OUT OF THE COLONY FOR A FELONY. HER CHILD REMAINED IN THE CUSTODY OF THE COLONY.

The defense also objected to that fact that only one juror was black, as was Robert Cline. In addition, there was an objection to eight jurors being excused because they were against the death penalty. Both motions were denied.

WHAT IS AN OBJECTION ?

SHOULD A JURY CONTAIN A MAJORITY OF PERSONS OF THE SAME RACE OR ETHNIC GROUP OF THE DEFENDANT? WHY/WHY NOT?

Judge Gianinni joined the attorneys for the prosecution and defense in the process of selecting members of the jury — the VOIR DIRE. Each juror was asked the same question:

"Robert Cline is accused of murder under 11-23-2, which calls for a mandatory death penalty. Knowing that, and considering your personal views on the death penalty, would you be able to make an impartial decision on the guilt or innocence of the accused?"

IF YOU WERE A POTENTIAL JUROR,

HOW WOULD YOU ANSWER THIS QUESTION ?

IS IT FAIR TO THE DEFENDANT ?

THE TRIAL:

The prosecution opened its case describing the crime and outlining Robert Cline's part in it. The Attorney General listed the witnesses he would call and how they would connect Cline to the murder.

DET. SGT. MCCARTHY: "Mr. Cline was arrested on Cranston Street. When he was brought to Police Headquarters, I read him his Miranda rights and then had him sign the Miranda sheet to show that he understood his rights."

1791 EIGHTH AMENDMENT REQUIRES "...NO UNUSUAL PUNISHMENT..."
1844 JOHN GORDON HANGED FOR MURDER OF AMANSA SPRAGUE.
1852 STATE ABOLISHES CAPITAL PUNISHMENT; ONLY LIFE IMPRISONMENT.

JANE DOE: "I had been in my window for about ten minutes waiting for the fishman, Frank Pirri. When he came, two men walked up to him. One grabbed him around the neck and put his hands into his pockets. Then I heard 2 or 3 shots."

ATTORNEY GENERAL: "Is either of those men in the courtroom, Miss Doe?"

JANE DOE: Yes, that is one of the men there. *(She points to Robert Cline)* He's the one who grabbed Pirri around the neck."

ATTORNEY GENERAL: "Let the record show the witness has identified the defendant." Additional witnesses followed.

JOHN DOE: "I was waiting for the fishman. I saw the peddler. I saw him *(pointing to Robert Cline)* walk up to him, grab him from behind and then shoot the guy."

DR. BUTAND BARANION: "I examined Robert Cline at the ACI Intake Center. I found no marks or contusions on his body. He did not comment to me about being beaten at the police station."

IS ANY OF THIS TESTIMONY

HARMFUL TO THE DEFENSE OF ROBERT CLINE ? WHY ?

1868 FOURTEENTH AMENDMENT IN DUE PROCESS CLAUSE PROHIBITS INFLICTING CRUEL AND UNUSUAL PUNISHMENT BY STATE.

1956 GENERAL LAWS REQUIRE DEATH BY HANGING FOR ANY PERSON WHO COMMITS MURDER WHILE IN PRISON FOR LIFE.

CASE FOR THE DEFENSE:

The defense lawyers for Mr. Cline from the Public Defender's Office rested their case on the "forced confession" given by the defendant. They emphasized again that the defendant did not give the confession freely, assisted by access to an attorney. They added that the defendant was not aware of his rights when he confessed and signed the Miranda form.

The defense questioned Det. Sgt. McCarthy about the arrest, the confession and the circumstances regarding taking Mr. Cline to the ACI. In addition, the defense challenged instructions given by Judge Gianinni to the jury regarding reading and listening to the radio and television. The defense argued at three points during the trial that the judge did not poll the jury to determine the effect of statements in the press about the trial. One comment in the newspaper was that Mr. Cline was an "escapee". They also pointed out that both the Providence Journal and Bulletin newspapers had reported *(incorrectly)* that the death penalty was a mandatory punishment for anyone committing murder while "...serving a sentence of imprisonment". The attorneys said that this statement would prejudice the jurors who read it. They added that a juror might think that the defendant had committed a prior crime in order to be in prison.

JUDGE GIANINNI: "Objection denied. There is no indication that jurors have been prejudiced. The article in the newspapers was an accurate statement of testimony already admitted into evidence."

SHOULD A PERSON'S PREVIOUS CRIMES BE BROUGHT TO THE ATTENTION OF A JURY?

1973 LAW CHANGED TO REQUIRE DEATH PENALTY FOR ANYONE SENTENCED TO LIFE IN THE ACI WHO COMMITS MURDER WHILE THERE.

1970's SEVERAL INMATE DISTURBANCES AT THE ACI.

CLOSING BY THE DEFENSE:

Again, the defense counsels outlined the points about Mr. Cline not understanding his rights under the Constitution and the Miranda ruling. They also repeated that he was beaten into signing the confession. They used the testimony of Dr. Donahue. They spoke of the marks on the defendant's body which Dr. Donahue found. They attacked the identification made by Ronald Stone. They pointed out that Stone had been shown several pictures. They argued, however, that he had been shown one picture in particular: that of Robert Cline.

They argued further that the judge had not questioned the jury when prejudicial comments appeared in the Journal Bulletin. They referred to statements about testimony given during the trial. They added that Judge Gianinni should have separated the charges against Mr. Cline. Finally, they questioned the idea that Mr. Cline could be charged with murder while a prisoner at the ACI. The murder committed did not take place at the ACI.

"Your Honor, the defense rests."

WHAT WAS THE CASE FOR THE DEFENSE ?

THE CASE FOR THE STATE:

Special Assistant Nancy Marks Rahmes presented the summary for the State of Rhode Island. She began by pointing out that Robert Cline had escaped from the minimum security facility at the ACI on March 16, 1974, and on April 11, 1974 had killed Frank Pirri. This murder took place at the Chad Brown Housing Project in Providence.

She outlined the testimony of the two residents of the Project. She said how they had both identified Robert Cline as the person who killed Frank Pirri. She spoke of the Ronald Stone's identification of Cline in a police lineup.

1987 SUPERMAX PRISON FACILITY BUILT FOR THE WORST CRIMINALS.
1989 INTAKE CENTER OPENS AT ACI TO SPEED PROCESSING OF INCOMING PRISONERS.

Next, the Attorney General reminded the jury of the testimony given by the Police Chaplain, who had said that he had not seen the beating that Mr. Cline had described. The Attorney General then recalled Mr. Cline's testimony for the jury :

A.G.: "Did you have anything to do with the murder of the fisherman?"

CLINE: "Yes, I shot him. I killed him. I'm sorry."

A.G.: "Why did you shoot him?"

CLINE: I thought he was going to shoot me. People said he carried a gun."

A.G.: "What were you doing when you shot him?"

CLINE: "Holding him up."

COULD CLINE PLEAD SELF DEFENSE?

Finally she reminded the jury that Robert Cline had been sentenced to the ACI and had escaped from there just a few days before he committed the murder.

A.G.: " The State recommends that you find the defendant guilty of murder in the first degree and sentence him to death as prescribed by law."

"The State rests."

OUTLINE THE ARGUMENTS FOR THE STATE.

OUTLINE THE ARGUMENTS FOR THE DEFENSE.

WHICH WOULD AFFECT YOU IF YOU WERE ON THE JURY ?

WHY? WHY NOT?

JUDGE GIANINNI INSTRUCTS THE JURY:

Judge Gianinni instructed the jury about the murder being committed in an attempt to rob a person. He pointed out that Robert Cline had legally been confined to the Adult Correctional Institution. He added that Cline escaped from there in March, 1974. He reminded the jury that they had a responsibility to weigh all of the evidence and testimony.

1989 WORK CREWS FROM PRISON CLEAN STATE AND LOCAL HIGHWAYS.
1990 FIRST PRISONERS RELEASED WEARING ANKLE TRANSMITTERS WHICH TRANSMIT SIGNAL WHEN PERSON GOES BEYOND A CERTAIN POINT.

He stated that they would then have to return a verdict that if they felt the defendant was innocent they should return a verdict of not guilty.

JUDGE GIANINNI: "If you believe the defendant is guilty of murder in the first degree, then you must return with a verdict of guilty."

THE DECISION:

YOUR TEACHER WILL GIVE YOU THE VERDICT OF THE JURY

YOU BE THE JUDGE:

1. Since Robert Cline was not on the property of the ACI when the murder was committed, should he have been sentenced to death ?
2. Cline said that he had been beaten into confessing. Does the evidence presented support this? If so, was his confession admissible?
3. Should the Judge have questioned the jurors about the information given in the newspaper?
4. Did you believe the statements of the two eyewitnesses? Why? Why not?
5. Do you believe that Robert Cline committed the crime? Why?
6. Questions were raised in the trial about only one black person on the jury and about Cline being poor. Are these points important to the trial? Why?
7. What is a fair trial? Did Cline receive a fair trial?
8. Should a person be put to death for committing murder?
9. The RI law required that a person at that time be sentenced to death by lethal gas. Do you think that death by gas is "cruel and unusual" ?

1991 NEW MINIMUM SECURITY PRISON ADDED TO THE ACI BUILDINGS.
1991 SPECIAL SECTION OF TRAINING SCHOOL USED TO HOUSE DANGEROUS DELINQUENTS

STATE OF RHODE ISLAND V. JOHN DOE

CHARGE: POSSESSION OF COCAINE WITH INTENT TO SELL

BACKGROUND:

On September 9, 1980, a woman identifying herself as Joan Eyre gave a heavily taped package to a clerk of Federal Express in Seattle, Washington. She wanted the 'watch' shipped to Thomas Poplar, Ball Drive, South Kingstown, Rhode Island.
Ms. Eyre said that Mr. Poplar would pick up the package as the airport office of Federal Express. Paying the shipping fee, she left the office without her change. The clerk became suspicious. She contacted her supervisor, Roger Finley, who opened the package. He found a small watch box with a small plastic bag inside. The bag contained a white powdery substance.

WHY DID THE CLERK BECOME SUSPICIOUS?

Finley contacted Agent Keith Earnst of the Drug Enforcement Administration (DEA) in Seattle. A DEA agent was sent to investigate. The agent conducted a test on the substance and found it was cocaine.

DID THE SUPERVISOR HAVE THE RIGHT TO OPEN THE PACKAGE ?

DID THE AGENT HAVE THE RIGHT TO TEST THE CONTENTS ?

Agent Earnst contacted Special Agent Richard Scovel of the Providence DEA Office.
He then requested that Federal Express rewrap the package and send it to Rhode Island.

1850 A WARRANT TO SEARCH THE DWELLING HOUSE OF A PERSON IS ONLY FOR HOUSE IN WHICH PERSON LIVES, NOT RENTS.

1888 SEIZURE OF LIQUOR WRONGFULLY KEPT FOR SALE IS NOT REPUGNANT TO (AGAINST) THE CONSTITUTION.

Following procedure, Agent Scovel notified Senior Narcotics Inspector Domenic F. Capalbo of the Division of Drug Control in Providence. Capalbo got a search warrant for the package and began surveillance at the Federal Express Office at the airport.

The package arrived in Rhode Island on the morning of September 10. Later that afternoon, a man arrived to claim the package. As he was leaving the office with the package, Scovel and Capalbo walked up to him. They opened the package, discovered the cocaine, and arrested the man, John Doe. He was charged with possession of cocaine with intent to deliver.

HOW WAS DOE ARRESTED?

WHAT WAS THE CHARGE?

PRE-TRIAL MOTIONS AND ACTIVITIES:

The defendant waived his right to a jury trial. Then the defendant made a motion to stop the cocaine from being used as evidence. His attorneys argued that the warrant was deficient. They claimed that there was no probable cause to have a warrant issued.

They also argued that the field test of the substance in Seattle went well beyond the legal limits of search. They noted that the test had been done before a search warrant was issued. Therefore, the search was illegal under the Fourth and Fourteenth Amendments to the Constitution.

WHY DID THE DEFENSE WANT THE COCAINE KEPT FROM BEING EVIDENCE ?

WHAT ARGUMENTS DID THEY USE ?

WHAT ARE THE FOURTH AND FOURTEENTH AMENDMENTS ?

1889 LAW DOES NOT REQUIRE THE COMPLAINT TO HAVE A DEFINITE DESCRIPTION OF THAT TO BE SEARCHED, BUT IT DOES REQUIRE THE WARRANT TO HAVE A CLEAR DESCRIPTION.

1893 WHEN A HOUSE BECOMES A CHURCH, THE STATE MAY EXAMINE THE PROPERTY TO DETERMINE IF IT IS KEPT WELL.

Judge Joseph Rogers denied the motion. He stated that the request for a warrant did clearly establish probable cause. He also ruled that the field test was justified by the circumstances of the situation.

THE TRIAL:

Because the defendant, John Doe, said that he did not want a jury trial, the trial was a bench trial. Judge Rogers would hear all of the evidence and testimony before he made a judgment.

WHAT IS A BENCH TRIAL?

THE CASE FOR THE PROSECUTION:

Attorney General Dennis Roberts II appointed Marc DeSisto, Special Assistant to the Attorney General, to represent the State. Mr. DeSisto outlined the case for the plaintiff. He told the story of the package, the suspicions of the clerk, and the actions of the DEA agents. He pointed out to the Court that the agents had established probable cause for the search of the package. He added that they had probable cause to obtain the warrant. He pointed out that the limits of search and the use of warrants apply only to government agents.

ATTORNEY GENERAL DESISTO: "The employees of Federal Express did not involve the 4th Amendment, because they are private citizens, not agents of the government."

He continued to point out that the defendant had taken possession of a package which contained 34.5 grams of 75% pure cocaine. The cocaine had a 'street value' of $4,140. He added that if the drug was diluted to 15 to 20 percent purity, its value would be $14,000. The amount was sufficient to charge and convict a person of possession with intent to deliver and sell.

1909 PUBLIC LAWS AUTHORIZING EXAMINERS TO ENTER BARBER SHOPS TO DETERMINE SANITARY CONDITIONS DO NOT VIOLATE THE CONSTITUTION.

1915 A CHURCH WHOSE TREASURER, THE PRIEST HAD BORROWED MONEY FOR NOTES OF PROMISE IS LIABLE FOR PAYMENT.

Attorney General DeSisto called a few witnesses, including the supervisor of the Federal Express office in Seattle. He described all of the events leading up to the arrest of John Doe at the airport. Then he called Agent Scovel.

ATTORNEY GENERAL DESISTO: "What amount of cocaine was found in the package?"

AGENT SCOVEL: "34.5 grams of cocaine were in the plastic bag."

DESISTO: "What was the quality of the cocaine?"

SCOVEL: "The cocaine had a purity of 75%."

DESISTO: "What was its value on the street?"

SCOVEL: "That amount of 75% pure cocaine would be worth $4,140. If it were diluted to 15 to 20% purity, it would be worth about $14,000."

DESISTO: "What would a person do with that amount of cocaine?"

SCOVEL: "Sell it, I imagine."

DEFENSE COUNSEL: "Your honor, the witness is guessing as to what a person might do."

DESISTO: "Your honor, this expert witness is merely suggesting what is normally done with such an amount of cocaine."

JUDGE: "Objection overruled."

The Attorney General continued his questioning of Agent Scovel regarding the search of the watch box. He had him describe the fact that the defendant picked up the box at the airport. Then he was arrested. He also questioned Agent Capalbo about the search and the arrest. The testimony of each person was exactly like that of the other.

1916 SEARCH OF CHIROPRACTOR'S OFFICE WHILE HE IS PRESENT AND WITHOUT OBJECTION BY HIM DEEMED NOT LEGAL.

1923 A BAPTIST CHURCH HAS AN ABSOLUTE RIGHT TO ELECT ITS OWN PASTOR WITHOUT INTERFERENCE FROM THE STATE.

1925 IN SEARCHING A SALOON, POLICE SAW A BOTTLE IN A MAN'S POCKET WHICH CONTAINED LIQUOR AND WAS HIS. THEY LEGALLY SEIZED THE BOTTLE AND ARRESTED THE MAN.

Search Warrant

State Ex rel	City/Town	County
vs Respondent SAMPLE		TO: An Officer authorized by law to execute the within warrant,

Complaint and affidavit having been made to me under oath, and as I am satisfied that there is probable cause for the belief therein set forth that grounds for issuing a search warrant exist, you are hereby commanded diligently to search the place or person herein described for the property specified and to bring such property or articles, and to summon the owner, or keeper thereof, if any be named in the complaint, if to be found by you, to appear before the District Court in the district where such property shall have been seized, namely the ..... Division of the District Court of Rhode Island.

Place or person to be searched:

Property or articles to be searched for:

Name of owner, or keeper, thereof if known to complainant:

Said warrant shall be served in the daytime — may be served in the nighttime — within seven (7) days form the issuance hereof, AND IF NOT SERVED WITHIN SAID TIME TO BE RETURNED FORTHWITH TO A JUDGE SITTING IN THE ABOVE NAMED COURT.

Property seized by you hereunder shall be safely kept by you under the direction of the Court so long as may be necessary for the purpose of being used as evidence in any case. As soon as may be thereafter, if the same be subject to forfeiture, such further proceedings shall be had thereon for forfeiture as is prescribed by law.

Hereof fail not and MAKE TRUE RETURN PROMPTLY OF THIS WARRANT TO A JUDGE THERE SITTING with your doings thereon, accompanied by a written inventory of any property taken to a judge sitting in the above named court.

Issued at ..... in the county of ..... this

..... day of ....., A. D. 19.....

.....
Judge of the District Court
Justice of the Supreme/Superior Court

ACKNOWLEDGMENT OF RETURN

Warrant received on ..... day of ....., 19....., from

..... at .....

RDC 802CA 1070

.....
Judge

SAMPLE OF THE FIRST PAGE OF A TYPICAL SEARCH WARRANT
(from the Providence Police Department)

WHAT IS THE ATTORNEY GENERAL TRYING TO PROVE ?

HAS HE SUCCEEDED?

WOULD YOU HAVE RULED AS THE JUDGE DID ABOUT THE STATEMENT OF AGENT SCOVEL?

CASE FOR THE DEFENSE:

The attorneys for John Doe called him to the stand first. They questioned him about the cocaine, if he had it in his possession. They also asked him why he had the cocaine in his possession when he was arrested.

DEFENSE ATTORNEY: "Mr. Doe, why did you have the cocaine?"

JOHN DOE: "I purchased it for my own use."

ATTORNEY: "You plan to use the cocaine yourself? You did not plan to sell it?"

DOE: "No."

WHY DID JOHN DOE HAVE COCAINE ?

In cross examination by Attorney General DeSisto, Doe gave the same answers.

The Defense then called Agent Scovel as a hostile witness. The attorney asked Scovel if he had searched the house of the defendant. Scovel said he had. Had Agent Scovel found any drug materials or the chemicals necessary to dilute cocaine ? There were no scales and no packaging materials.

WHAT IS A HOSTILE WITNESS ?

1948 THE ONLY PERSON WHO CAN CLAIM HIS RIGHTS HAVE BEEN VIOLATED BY A SEARCH IS THE PERSON ON HIS OWN PREMISES.

1948 EVIDENCE SEIZED DURING SEARCH OF CELLAR IN HOUSE USED JOINTLY BY DEFENDANT AND WIFE WITH WIFE'S CONSENT IS NO VIOLATION OF CONSTITUTIONAL RIGHTS.

DEFENSE: "Agent Scovel, what was the defendant going to do with this amount of cocaine?"

AGENT SCOVEL: "I have no way of knowing."

DEFENSE: "Does the Defendant have a previous record in drugs?"

SCOVEL: "No".

ATTORNEY: "Agent Scovel, how much cocaine can one person consume without terrible effects?"

SCOVEL: "I believe that each person could take in different amounts. I'm not sure."

ATTORNEY:"Your Honor, the Defense rests."

WHAT WAS THE DEFENSE TRYING TO PROVE ?

DID IT SUCCEED ?

THE SUMMARY BY THE DEFENSE:

The Defense Counsel reviewed for the Court the situation which brought his client to the point of his arrest. At no time did the Attorney deny the fact that John Doe had possessed cocaine. He did, however, request again that the evidence of the cocaine had been entered illegally. He added that there was no evidence presented in any testimony that Mr. Doe planned to sell the cocaine. He argued that since there was no evidence of any cutting substances or scales, this showed that Mr. Doe had not planned to dilute the cocaine.

"Your Honor, we request that you find the defendant not guilty of the charges against him."

SUMMARIZE THE DEFENDANT'S CASE.

WHAT ARE THE IMPORTANT POINTS OF THE CASE FOR THE DEFENSE ?

LIST THEM.

1975 RHODE ISLAND V. JOSEPH - NEGATIVE ATTITUDE OF COURTS TOWARDS WARRANTS WILL DISCOURAGE OFFICERS FROM SUBMITTING EVIDENCE...BEFORE ACTING.

1980 RHODE ISLAND V. READ - REINFORCED JOSEPH.

THE CASE FOR THE STATE:

The Attorney General then summarized the case for the State. He outlined again the testimonies of Agents Scovel and Capalbo. He traced the cocaine from Seattle to Warwick, Rhode Island. He pointed out that the cocaine was in the possession of John Doe at the airport. Next, the Attorney General spoke of the amount of cocaine and the value of the drug if it would be sold on the street. He talked about the increase in value of the cocaine if it were to be diluted to increase its amount.

"Your honor, I ask the court to find the defendant guilty of the charge and request that the Court apply the full penalty provided by law."

SUMMARIZE THE CASE FOR THE PROSECUTION.

WHAT ARE THE IMPORTANT POINTS OF THE CASE ? LIST THEM.

THE DECISION:

YOUR TEACHER WILL GIVE YOU THE DECISION OF JUDGE ROGERS

YOU BE THE JUDGE:

1. Why did Mr. Doe not want a jury trial?
   Would he have been acquitted if he had a jury? Why? Why not?
2. Why is it important that the name of the DEA agent who tested the cocaine was not given?
3. Would you allow the evidence of the package and the cocaine to be admitted?
4. Was there a "warrantless search" here?
   If so, would you allow the charge of possession in order to sell?

1980 STATE V. ROBALEWSKI — HAS INTERPRETED LAW AS ALLOWING POLICE OFFICER TO SEIZE EVIDENCE IN PLAIN VIEW.

1980 STATE V. PROULX— ALL EVIDENCE, CIRCUMSTANCIAL OR DIRECT, MUST SUPPORT GUILTY FINDING BEYOND REASONABLE DOUBT.

5. Were there extraordinary circumstances here that would allow a search without a warrant? Was there a possibility that the defendant might flee if the package were delayed?

6. Do you feel that Agent Scovel's testimony worked for the State or for the defendant? What did he say that might help each side?

7. Do you feel that Mr. Doe planned to sell the cocaine? What makes you believe that he would or that he wouldn't?

8. The defendant argued that his rights under the Fourth and Fourteenth Amendments to the Constitution were violated. What rights does he or any person have under these Amendments? Was he correct? Were his rights violated?

9. Should Mr. Doe be sentenced for possession with intent to sell or with possession? Which would carry the more severe penalty? Why?

10. If Mr. Doe is found guilty of the charge, the Defendant will probably appeal the decision of Judge Rogers. If you were on the Supreme Court to hear the appeal, would you be in favor of changing Judge Rogers' decision?

Give reasons for your decision.

1981 SHARBUNO V. MORAN (RI) —COURT MUST INSTRUCT JURY OF LESSER CHARGE AGAINST A PERSON (POSSESSION OR SALE OF DRUGS).

1982 STATE V. WELSH — TRIAL JUSTICE'S DECISION IN A NONJURY, CIVIL OR CRIMINAL TRIAL IS ENTITLED TO GREAT WEIGHT.

GLOSSARY OF WORDS AND PHRASES

AMENDMENT - A change in a law or constitution which will improve it. Sometimes an amendment might just be added to a law.

ARRAIGNMENT - When a person is charged with a crime, the person is brought before a judge or a magistrate. The judge may also confine the person in jail or prison for a period of time.

ATTORNEY/LAWYER - An officer of the court. Educated in the law, this person might represent the plaintiff or the defendant.

BENCH - The place where the judge sits in a court. Also a type of trial with out a jury — a bench trial. A term used to refer to the judge.

CIRCUIT COURT - In earlier times in Rhode Island, these courts that had jurisdiction cover a large area, e.g., Washington County. They are now District Courts.

CODE - A list of laws or regulations.

CONSTITUTION - In the United States and Rhode Island this is the list of basic beliefs on which laws are built. For example, both constitutions have sections on freedom of religion.

CORONER - A doctor appointed by the state to examine bodies of persons who die under unusual circumstances or through violence.

DEFENDANT - A person accused of a crime or of doing something that is wrong in business.

ENFRANCHISE - The right of a person under the Constitution and local laws to vote. There may be certain qualifications before a person may vote.

EXCEPTION - An attorney believes that an action or statement of the court is not based on law or that it does

GENERAL ASSEMBLY (LEGISLATURE) - The law-making body of Rhode Island. The House of Representatives and the Senate make the laws under which we live.

JURY - A group of citizens from the community who are asked to decide whether a person is guilty or not guilty of a crime. A grand jury hears evidence presented by the Attorney General to decide if a person should be tried.

LETHAL GAS - Gas which kills. In some states, cyanide gas pellets are placed in a container beneath a condemned person. The gas from the pellets will suffocate the person.

MOTION - Request to the court by an attorney asking under court rules that something happen. For example, a defense attorney may ask that a trial be moved to another city or town, or that a trial be postponed.

OBJECTION - An attorney states that another lawyer or the judge has done something which is not acceptable in trial procedure. For example, an attorney may not accept the form of a question to a witness.

PLAINTIFF - A person, city, or state which accuses another of committing a crime or of being dishonest in a business deal.

PROOF - When evidence is entered into the court record and is determined to be part of a crime linking a person to the committing of the crime.

PROSECUTOR - Usually, an attorney general or assistant to the attorney general who represents the people of Rhode Island in bringing charges against a defendant. This person is also the plaintiff.

PUBLIC DEFENDER - A lawyer appointed by the court on a regular basis to represent a defendant in a trial.

PUBLIC LAW - A rule or regulation by a town, city or state which governs the life of the citizens. These can be rules about parking on the street or carrying a gun.

SABBATH - A day held holy in a particular religion. Some religions have Sunday as a day of worship, while others accept Saturdays or other days.

SHERIFF (HIGH) - A person who was in charge of the police in the early days of the colony. Sheriffs today guard the courts and serve warrants.

SUPERIOR COURT - Most criminal cases and civil cases for amounts over $5000 are heard in Superior Court. The judges also hear appeals from other courts.

SUPREME COURT (RI) - A group of judges who decide if a law is constitutional. The justices also hear appeals from Superior and other courts.

SUPREME COURT (US) - The highest court of the United States which hears appeals from lower courts. The justices also determine if laws are constitutional.

TESTIMONY - Statements made by a witness to a crime. Testimony may also be statements made under oath by an expert witness, coroner, tax expert, etc.

VOIR DIRE - The process lawyers use to select a person to serve on a jury. Each lawyer is allowed to question every juror and may dismiss jurors whom the lawyer believes would not be favorable to the client.